LBP Green Tree and Williamsport, PA

UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

TSL, LTD.

Employer

and

Case 6-RC-12727

GENERAL TEAMSTERS, CHAUFFEURS AND HELPERS, LOCAL NO. 249, A/W INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Petitioner

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel, has considered objections to an election held on April 23, 2010, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Election. The revised tally of ballots shows 10 votes for and 10 votes against the Petitioner, with no challenged ballots.¹

The Board has reviewed the record in light of the exceptions and briefs, has decided to affirm the hearing officer's findings and recommendations, and

¹ The initial tally of ballots showed 9 for and 6 against the Petitioner, with 9 challenged ballots. The parties resolved the challenges, resulting in a revised tally of 10 for and 11 against the Petitioner. The hearing officer determined that one of the ballots counted as a "no" vote was not clearly marked and should be voided. There are no exceptions to that finding.

finds that a certification of results of election should be issued.²

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for the General Teamsters, Chauffeurs and Helpers, Local No. 249, a/w International Brotherhood of Teamsters, and that it is not the exclusive collective-bargaining representative of these employees:

All full-time and regular part-time drivers, mechanics and utility employees, employed by TSL, Ltd. and leased to Modern Transportation Services, Inc. at the Green Tree and Williamsport, Pennsylvania facilities; excluding office clerical employees, and guards, professional employees and supervisors as defined in the Act, and all other employees.

Dated, Washington, D.C., September 29, 2010.

	Wilma B. Liebman,	Chairman
	Craig Becker,	Member
	Mark Gaston Pearce,	Member
(SEAL)	NATIONAL LABOR RELATIONS BOARD	

In its answering brief, the Employer argues that the Petitioner waived its right to contest the Regional Director's direction of a manual election by failing to file a special appeal following the direction of the election. Because we are upholding the Regional Director's decision, we need not pass on the Employer's waiver argument.

² We adopt the hearing officer's finding that the Regional Director did not abuse his discretion by denying the Petitioner's request for a mail-ballot election. In doing so, we observe that the Petitioner did not except to the hearing officer's application of an abuse-of-discretion standard. We also find it unnecessary to rely on the hearing officer's citation to *GPS Terminal Services, Inc.*, 326 NLRB 839 (1998). That case does not stand for the proposition for which it was cited by the hearing officer.